

### **REMARKS**

This amendment is responsive to the non-final Office Action of March 4, 2010. Reconsideration and allowance of **claims 3, 4, 12, 14, 16-18, 20-22, and 24-28** are requested.

### **The Office Action**

**Claims 3, 4, 12, 14, 16-18, 20-22, and 24-28** were rejected under 35 U.S.C. 103(a) as being unpatentable over Seely et al. (U.S. Patent Application Publication 2003/0117296) in view of Balakirev et al. (WO 93/18706).

### **WO 93/18706**

The copy of WO 93/18706 provided by the Examiner is in Russian and no translation has been provided. The Examiner refers Applicant to an English-translation of the abstract and the Figures. However, the technical description set forth in the abstract is too brief to ascertain exactly what Balakirev et al. discloses and determine whether Balakirev et al. provides an enabling disclosure of that which is set forth in the abstract.

Accordingly, it is respectfully submitted that the Examiner either provide a full translation of Balakirev et al. or withdraw the reference.

### **The Claims Distinguish Patentably Over the References of Record**

**Claims 3, 4, 12, 14, 16-18, 20-22, and 24-28** are patentable over Seely et al. in view of Balakirev et al. The rejection is hereby traversed.

More specifically, regarding **claim 12**, Seely et al. does not disclose controlling the display device to display the cumulative curve superimposed on the histogram. The Examiner refers Applicant to Figure 5 and 6 of Seely et al. Contrary to the Examiner's assertions, Figures 5 and 6 of Seely et al. do not show a display of a cumulative curve superimposed on a histogram. The Examiner asserts that such a limitation is taught in Abstract and Figure 3.1 and 3.2 of Balakirev et al.

A rhythmogram (note the base word "rhythm") is a graphic chart that shows the dependence of the R-R interval duration on time. In Figure 3.2 of Balakirev et al., the height of each vertical bar represents the duration of the corresponding R-R interval. Note that the Figure 3.2 rhythmogram is in the nature of

a bar graph. Thus, the Balakirev et al. Figure 3.2 does not show a cumulative curve nor does Balakirev et al. superimpose the rhythmogram on histograms. In Figure 3.2, the two bar graphs are displayed side-by-side.

As stated above, Applicant has not been given an English translation of Balakirev et al. and the technical description set forth in the abstract is too brief to ascertain exactly what Balakirev et al. discloses and determine whether Balakirev et al. provides an enabling disclosure of that which is set forth in the abstract. It is respectfully submitted that neither Seely et al., nor Balakirev et al., nor the combination teach displaying a cumulative curve superimposed on a histogram.

Accordingly, it is submitted that **claim 12** and **claim 24** dependent therefrom distinguish patentably and unobviously over the references of record.

**Claim 20** calls for displaying the histogram with the cumulative curve superimposed, the histogram and the cumulative curve having common axes. The Examiner asserts that Seely et al. provides the user with various display options. However, none of the display options noted by the Examiner teach or fairly suggest displaying a histogram with a cumulative curve superimposed and with the histogram and the cumulative curve having common axes and common scales. The rhythmogram of Figure 3.2 of Balakirev, et al. is neither a cumulative curve nor is it superimposed on the histogram of Figure 3.2. It is respectfully submitted that neither Seely et al., nor Balakirev et al., nor the combination, teach superimposing a cumulative curve on a histogram with the cumulative curve and the histogram having a common axes.

Accordingly, it is submitted that **claim 20** and **claims 3, 4, 21, and 27** dependent therefrom distinguish patentably and unobviously over the references of record.

**Claim 22** calls for outputting the cumulative curve superimposed on the histogram as picture signals. Figures 5 and 6 of Seely et al. do not show a display of a cumulative curve superimposed on a histogram as picture signals. Nor does Balakirev et al. show a display of a cumulative curve superimposed on a histogram as picture signals. It is respectfully submitted that neither Seely et al., nor Balakirev et al., nor the combination teach outputting picture signals that are cumulative curve superimposed on a histogram.

Accordingly, it is submitted that **claim 22** distinguishes patentably and unobviously over the references of record.

**Claim 28** calls for a display device controlled to display the cumulative curve superimposed on the histogram as the medical measurement data is received. Contrary to the Examiner's assertion, Seely et al. does not disclose or teach displaying a cumulative curve superimposed on histogram data as the medical measurement data is received. Balakirev, et al., which shows a rhythmogram and a histogram as separate displays, does not cure this shortcoming of Seely et al. It is respectfully submitted that neither Seely et al., nor Balakirev et al, nor the combination teach superimposing a cumulative curve on the histograms while receiving the measurement data.

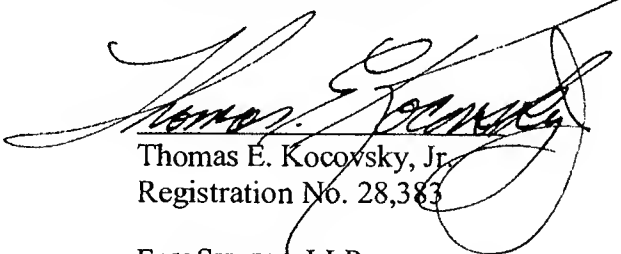
Accordingly, it is submitted that **claim 28** and **claims 14, 16-18, 25, and 26** dependent therefrom distinguish patentably and unobviously over the references of record.

### CONCLUSION

For the reasons set forth above, it is submitted that **claims 3, 4, 12, 14, 16-18, 20-22, and 24-28** distinguish patentably over the references of record and meet all statutory requirements. An early allowance of all claims is requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case, the Examiner is requested to telephone Thomas Kocovsky at 216.363.9000.

Respectfully submitted,



Thomas E. Kocovsky, Jr.  
Registration No. 28,383

FAY SHARPE LLP  
The Halle Building, 5th Floor  
1228 Euclid Avenue  
Cleveland, OH 44115-1843  
Telephone: 216.363.9000 (main)  
Telephone: 216.363.9122 (direct)  
Facsimile: 216.363.9001  
E-Mail: [tkocovsky@faysharpe.com](mailto:tkocovsky@faysharpe.com)